



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 25, 1996

Mr. Miles K. Risley  
Interim City Attorney  
City of Victoria  
Legal Department  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR96-0081

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 38123.

The City of Victoria (the "city") received a request for all police reports regarding the child custody of a certain child for the period of June 1995 through December 1995. The requestor is the child's mother. You say the city has released two police reports to the requestor, but that the city seeks to withhold from required public disclosure one Supplementary Police Report of the Victoria Police Department based on section 552.101 of the Government Code in conjunction with section 34.08 of the Family Code.

Section 552.101 of the Government Code excepts from required public disclosure information that law outside the Open Records Act makes confidential. It applies to information made confidential by statute. You raise section 34.08 of the Family Code. The Seventy-fourth Legislature repealed section 34.08 and added section 261.201 of the Family Code. See Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113,161 (Vernon). Section 262.201(a) reads as follows:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

We do not believe subsection (a)(1) applies to the information at issue. It is not "a report of alleged or suspected abuse or neglect made" under chapter 261 of the Family Code. The report refers to a Department of Protective and Regulatory Services ("DPRS") investigation of child abuse. That reference appears to consist of information that is part of the investigative file in that case. Consequently, we believe the reference is made confidential by section 262.201(a)(2) of the Government Code and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the investigating agency.

We do not believe the disclosure of the information at issue pursuant to the Open Records Act is for a purpose consistent with the Family Code or applicable federal or state law. The report indicates that the city obtained the information that refers to the child abuse investigation from the Silsbee Police Department. We do not know whether the Silsbee Police Department has adopted any specific rules with regard to the release of this type of information. Assuming the Silsbee Police Department is the investigating agency and the Silsbee Police Department has adopted no rules, we conclude that the portion of the requested report that refers to the child abuse investigation is confidential pursuant to section 262.201(a)(2) of the Family Code.<sup>1</sup> Accordingly, the city must withhold from required public disclosure that portion of the requested records. Gov't Code § 552.101. The remainder of the report must be released. We have marked the report accordingly.

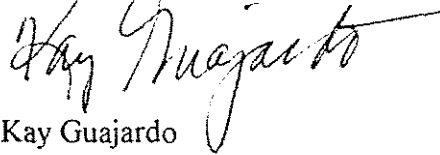
We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous

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<sup>1</sup>We note, however, that as the parent of the child, the requestor here may have a statutory right to review the Texas Department of Regulatory Services file on the investigation. See Fam. Code § 261.201(f).

determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal flourish extending to the right.

Kay Guajardo  
Assistant Attorney General  
Open Records Division

KHG/ch

Ref.: ID# 38123

Enclosures: Submitted documents